



NAGPRA BASICS

National NAGPRA Program

Santa Fe, NM

May 8, 2012

Agenda

- I. NAGPRA: An Overview
- II. Key Terms
- III. Consultation
- IV. The NAGPRA Process
- V. NAGPRA Grants

Four Commandments

1. Read the law – statute and regulations
2. Use the tools provided on the National NAGPRA Program's website:
www.nps.gov/nagpra
3. Ask National NAGPRA Program staff your specific questions
4. Check the “What's New?” column of the National NAGPRA Program's webpage weekly

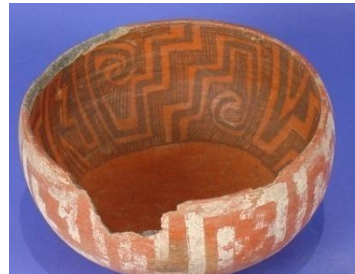
I. NAGPRA: An Overview



Courtesy of Sealaska Corporation



Courtesy of Kootzoonoowoo Inc.



Courtesy of the Field Museum



Courtesy of Hood College

What is NAGPRA?

- Federal law passed in 1990
- Provides a process for museums and Federal agencies to return certain Native American cultural items to lineal descendants, and culturally affiliated Indian tribes and Native Hawaiian organizations, including:
 - human remains
 - funerary objects
 - sacred objects
 - objects of cultural patrimony

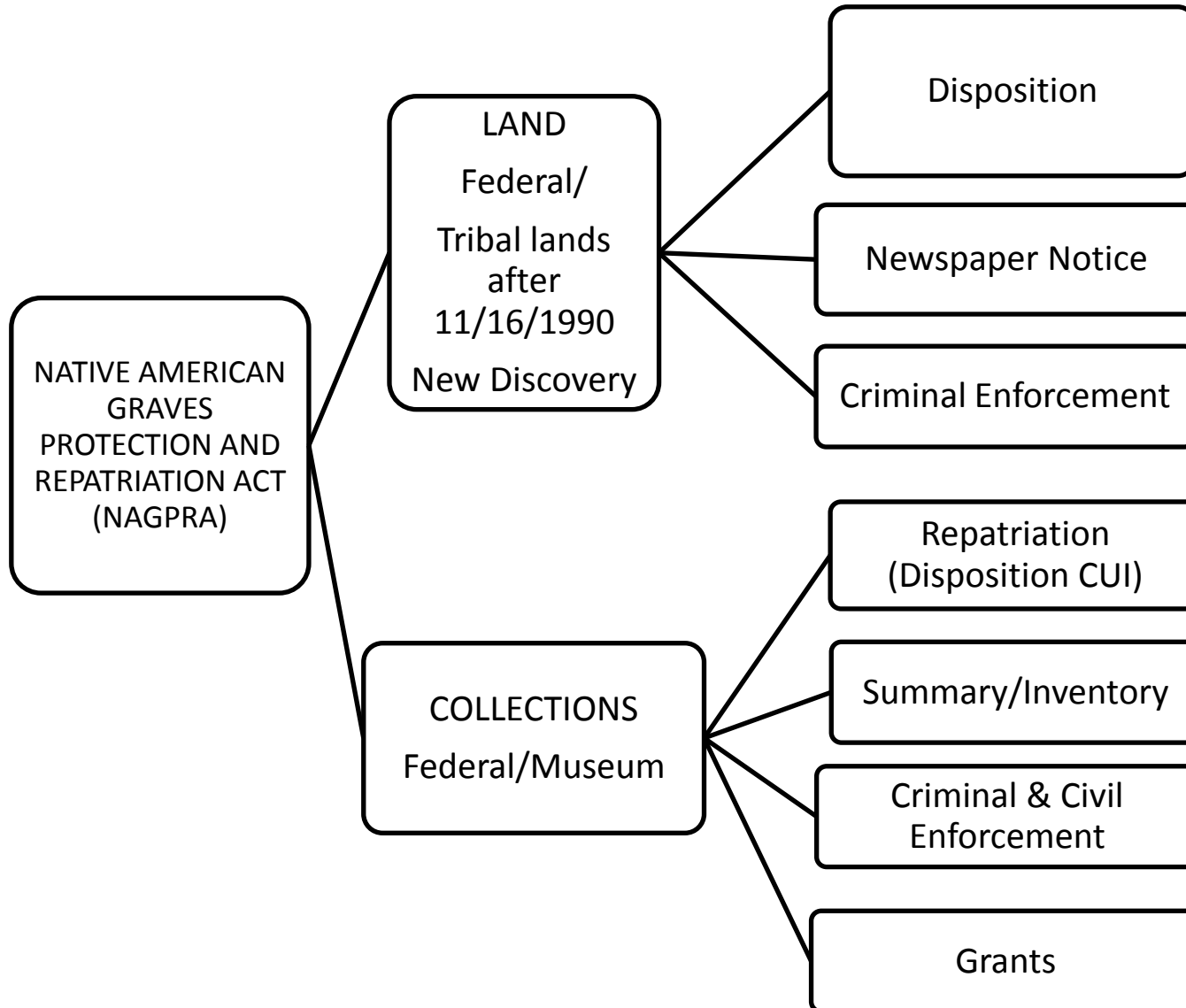
Who must comply?

- **Federal Agency** (excludes the Smithsonian Institution, which operates under a parallel law)
- **Museum** - Any institution (including any institution of higher learning), or state or local government agency that, after November 16, 1990, receives Federal funds and, at the time of receipt of those funds or afterward, has possession of, or control over, human remains and cultural items covered by NAGPRA

Who may claim?

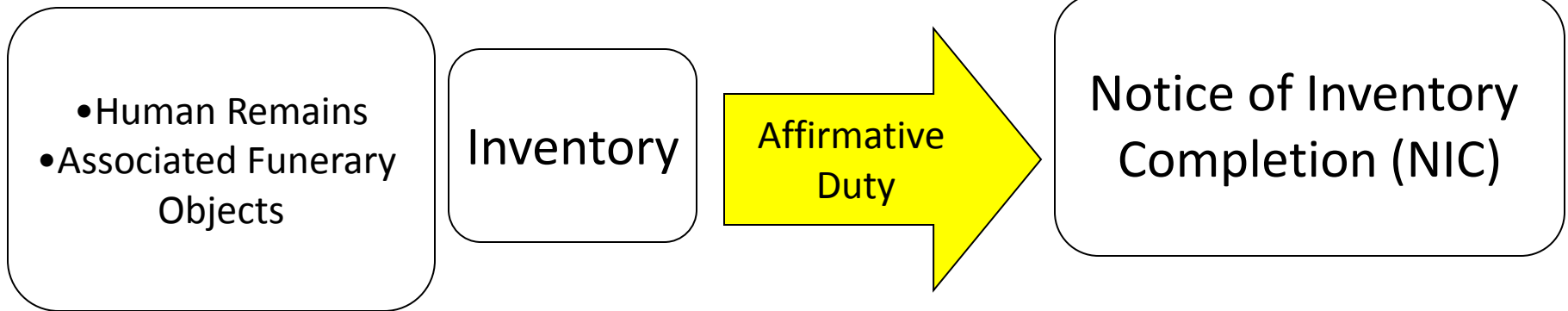
- Lineal descendant
- Indian tribes on the list of entities in the contiguous 48 states and in Alaska that are recognized and eligible for funding and services from the Bureau of Indian Affairs by virtue of their status as Indian tribes
 - The list is published in the Federal Register, as required by the Federally Recognized Indian Tribe List Act of 1994
- Native Hawaiian organizations

What action is required?

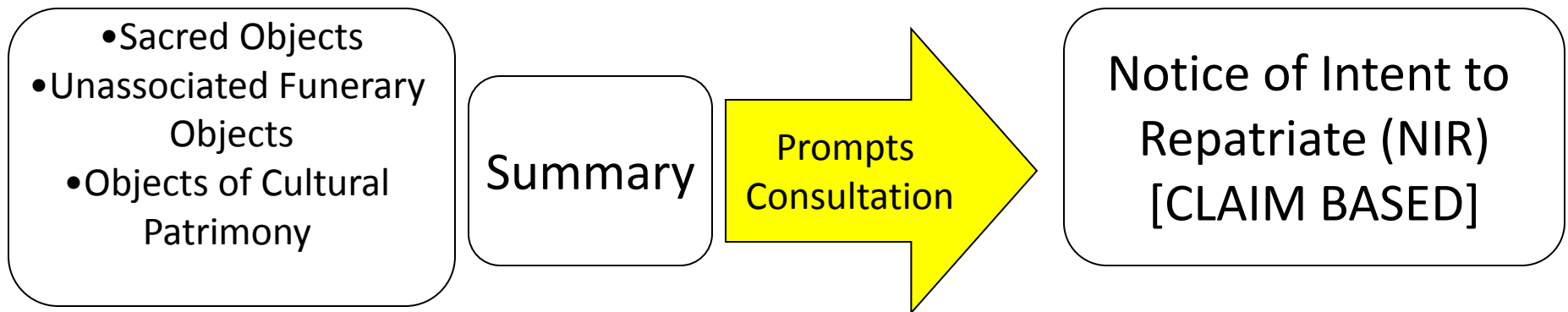


What action is required for collections?

Section 5



Section 6



What is a claim?

Inventory	Summary
For human remains and associated funerary objects	For cultural items
DECISION DOCUMENT	CLAIM DEPENDENT
Claims or competing claims follow publication of notice	Claim must establish <ol style="list-style-type: none">1. Claimant is Federally Recognized Tribe/NHO2. Cultural item meets a category under NAGPRA3. Cultural affiliation between object and claimant

II. Key Terms



Definitions: Human Remains

- The physical remains of a human body of a person of Native American ancestry
- Does not include remains or portions of remains that may reasonably be determined to have been freely given or naturally shed by individuals from whose body they were obtained
- If human remains are incorporated into an item that is a funerary object, sacred object, or object of cultural patrimony (objects covered by NAGPRA), they are considered as part of that object

Definitions: Associated Funerary Objects

- Are reasonably believed to have been intentionally placed with a particular set(s) of human remains, either at the time of death or later; OR
- Were made exclusively for burial purposes or to contain human remains; AND
- Both the human remains and objects are in the possession, or under the control, of a museum or Federal agency

Definitions: Unassociated Funerary Objects

- Are reasonably believed to have been intentionally placed with a particular set(s) of human remains, either at the time of death or later; AND
 - Are related to the human remains of a known individual; OR
 - Are related to specific individuals or families; OR
 - Were removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe; AND
- The human remains related to the objects are not in the possession, or under the control, of a museum or Federal agency

Definitions: Sacred Objects

- Specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional religions by present-day adherents
- May be owned by an individual or a group

Definitions: Objects of Cultural Patrimony

- have ongoing historical, traditional, or cultural importance
- were considered inalienable by the Native American group at the time the objects were separated from them
- are owned by a tribe or group, not individuals

Definitions: Consultation

The process by which a museum or Federal agency exchanges information with lineal descendants and Indian tribal/NHO officials, and traditional religious leaders to determine cultural affiliation, custody, control, treatment, and disposition or repatriation of human remains and objects covered by NAGPRA

Definitions: Cultural Affiliation

- A relationship of shared group identity which may be reasonably traced historically or prehistorically between a present-day Indian tribe or Native Hawaiian organization and an identifiable earlier group
- A determination of cultural connection not bounded by political connection
- Statute does not indicate time depth
 - Fact-based, case-by-case determination
 - There is no age criterion for purposes of determining whether human remains and objects are culturally affiliated, or are Native American

Evidence of Cultural Affiliation

Relevant information for determining cultural affiliation

- Geographical
- Kinship
- Biological
- Archaeological
- Anthropological
- Linguistic
- Folkloric
- Oral traditional
- Historical, or
- Other relevant information or expert opinion

Note: This list is not exclusive nor is it in priority order

III. Consultation



Photo courtesy of the Colorado Historical Society

Goal of Consultation

Museums and Federal agencies must consult with:

- known lineal descendants
- tribes/NHOs that are, or are likely to be, culturally affiliated with the human remains or cultural items
- “Tribal land” tribes
- “Aboriginal land” tribes

REFERENCE: 43 C.F.R. 10.5, 10.8 (a), and 10.9 (b)

Identifying Tribe(s) to Consult

- Are there locational and cultural identifiers in the museum's collection records?
- Are there tribes at the location today?
- Is the location within the aboriginal lands of a tribe or tribes?

Resources for identifying tribe(s)

www.nps.gov/NAGPRA

- Search the **Native American Consultation Database** by state or county.
- Search the **Culturally Affiliated Native American Inventories Database** and **Culturally Unidentifiable (CUI) Native American Inventories Database** by state or area and review any published notices to see determinations.
- Review **Maps** of reservations, land cessions, military bases and Federal and tribal land areas.

Consultation

- Can include official correspondence, teleconferences, webinars, face-to-face meetings, emails, and telephone calls
- Should be preceded by information shared between parties
- Should be guided by an agenda developed with the tribe(s) input
- Should be documented to accurately convey tribal concerns and sentiments in a culturally sensitive manner

Consultation Tips for Success

- Give time and space for private ceremonies
- Explain museum protocols – use of gloves, pesticides, etc.
- Be mindful of tribal representatives need, including accessibility and cultural sensitivity
- Plan for time after viewing collections to discuss next steps
- Consultation may be more than one visit or site meeting and may extend to teleconferences or emails

IV. The NAGPRA Process



Photograph is courtesy of the Colorado Historical Society

Inventory

- A detailed, itemized list of **human remains** and **associated funerary objects**
- **Produced in consultation** with lineal descendants, representatives of “tribal land” tribes/NHOs and “aboriginal land” tribes, and representatives of tribes/NHOs that are, or are likely to be, culturally affiliated
- Constitutes **a decision document** - Includes determinations of cultural affiliation based on reasonable belief

Kinds of Inventories

- Culturally Affiliated
- Culturally Unidentifiable

Inventory Template found here:

[http://www.nps.gov/nagpra/MANDATES/Inv Memo 4-27-95.pdf](http://www.nps.gov/nagpra/MANDATES/Inv_Memo_4-27-95.pdf)

Inventories

What if things have changed since original submission?

- Amended inventories can change:
 - Cultural affiliation
 - Counts of items
 - Control or possession of items
- Future Applicability Rule
 - Receive new collections containing NAGPRA items
 - Receive Federal Funds for the first time
 - New Federally recognized Indian Tribe

Future Applicability Rule

Museums and Federal agencies receiving a new collection, or having collections of new Indian tribes, must prepare or update inventories within **2 years** and summaries within **6 months**. If the museum receives Federal funds for the first time, summaries are due in **3 years** and inventories in **5 years**.

What an Inventory Should Look Like

Item: Human remains

MNI: 1

AFO: 1

Accession #: 43GAC184

Catalogue #: AB123

Description: Nearly complete skeleton, Native American, Male, Age 35-60

Geographical Location: Geary County, OK

Collection History: Reportedly collected in the Oklahoma Territory by Frank Fox in the late 1880's. One lidded basket was removed from the burial site at the same time. Mr. Fox donated remains and the object to the Poplar Museum in 1932.

Consultation: 1997 meeting with THE TRIBE's Repatriation committee.

Basis of Determination: Geographical affiliation is consistent with the historically documented territory of THE TRIBE.

Cultural Affiliation: THE TRIBE

What an Inventory Should Look Like (con't)

Controlling Institution or Agency Name	Name of Possessor or Repository if different from controlling institution	Site Name	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History, Age/Culture, and AFO)
Riverside Metropolitan Museum	Riverside Metropolitan Museum	Unknown	Accession #: RMM A3-73	AZ	unknown	1	0	Collection History: Donated by Cornelius E. Rumsey in 1925. Age/Culture: No information AFO: None
Riverside Metropolitan Museum	Riverside Metropolitan Museum	Augustine Mound; Deer Creek- Cosumnes River area, S of Elk Grove	Accession #: A243-27-42, 43 (1-3), 44-51	CA	Sacramento	27	29	Collection History: Donated by Mrs. Bessie B. Walker in 1959; excavated by her deceased husband, Dr. Paul Walker who was associated in the 1930s with Sacramento City College Age/Culture: Miwok AFO: 10 Deer bone awls, 1 deer scapula saw, 10 antler flaking tools, 1 bone scraper, 6 bone fish hooks
					Total	28	29	

What an Inventory Shouldn't Look Like

45GAC Human Remains		
Accession	Catalog #	Description
451GAC	11-532	Burials 1&2: comingled, ~18 years, male and female;
452GAC	11-532	Burials 3&4: comingled, adult, indeterminate sex;
453GAC	11-532	Burial 5: child (6-8 years), indeterminate sex;
454GAC	11-532	Burial 6: child (2.5-3.5 years), indeterminate sex;
455GAC	11-532	Burial 7: indeterminate age and sex

Summaries

- Estimated number of objects in collection
- Description of the kinds of objects
- Reference to the means, date(s), and location(s) in which the collection or portion of the collection was acquired
- Information relevant to identifying lineal descendants or culturally affiliated tribes

Summary Objects

- Unassociated Funerary Objects
- Sacred Objects
- Objects of Cultural Patrimony

Summaries

- A tool to initiate consultation
- Sacred objects, objects of cultural patrimony, and unassociated funerary objects are determined through sharing of data

What a Summary Should Look Like

Kiowa

The following 1 records for Federally recognized Indian tribe(s), Native Hawaiian organization(s), Alaska Native corporation(s), and/or their designated NAGPRA contact(s) have been identified:

- Kiowa Indian Tribe of Oklahoma

Mr. Billy Evans Horse
Kiowa Tribe of Oklahoma
Business Committee
P.O. Box 369
Carnegie, OK 73015

Mr. Dewey Tsonetokoy
Kiowa Tribe of Oklahoma
Cultural Resource Management
PO Box 369
Carnegie, OK 73015

Mr. Sherman Chaddlesone
Kiowa Tribe of Oklahoma
Cultural Resource Management
P.O. Box 369
Carnegie, OK 73015

Brief overview of items
in collection and an
invitation to consult

List of contacts that
received this summary

Mr. Billy Evans Horse
Kiowa Tribe of Oklahoma
Business Committee
P.O. Box 369
Carnegie, OK 73015

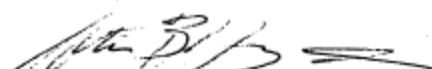
Dear Mr. Horse:

The Flint Institute of Arts has completed a survey of its Native American ethnographic collections. The purpose of the survey was to determine if the Institute's collections included any objects that might be classified as unassociated funerary, sacred or of cultural patrimony that are affiliated with your group. We hereby wish to notify you of the results of this survey as required by Section 6 of the Native American Graves Protection and Repatriation Act.

In examining our ethnographic collection, we found a dress made of deerskin, shells and glass beads attributed to the Kiowa from Oklahoma. The other items in our collection that are attributed to the Kiowa but have no geographic location are two baby carriers made of wood, fabric, hide, glass beads and tin.

You are invited to review our records, catalogues and other pertinent data for the purpose of determining geographic origin, cultural affiliation and basic facts surrounding acquisition and accession of these items. Please feel free to contact the curatorial office regarding the identification of cultural items in this collection.

Sincerely,



Summary: Requirements for Claim

The claimant bears the burden of supporting their claim for cultural items in a summary:

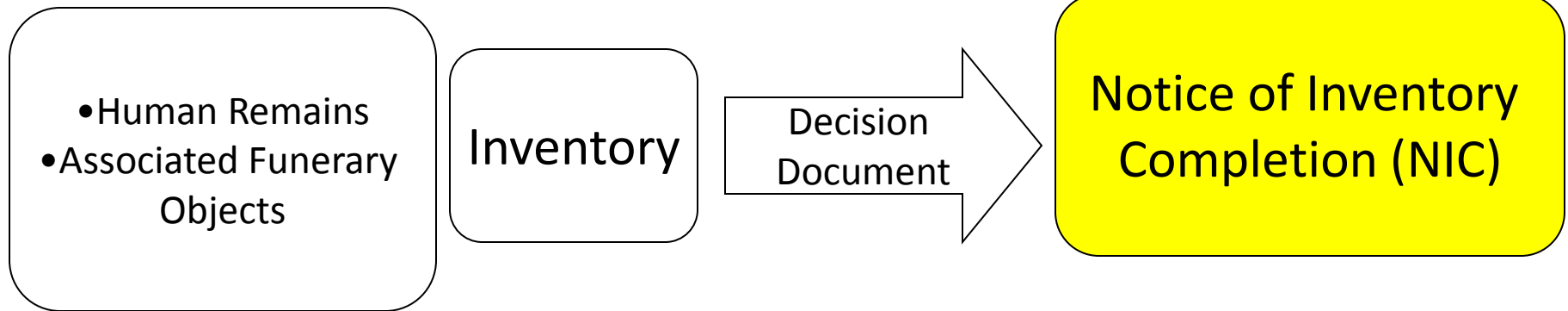
- The claimant is lineal descendant or Federally Recognized tribe/NHO
- The object being claimed meets a NAGPRA category
- The object being claimed is culturally affiliated to the claimant

Decision-making

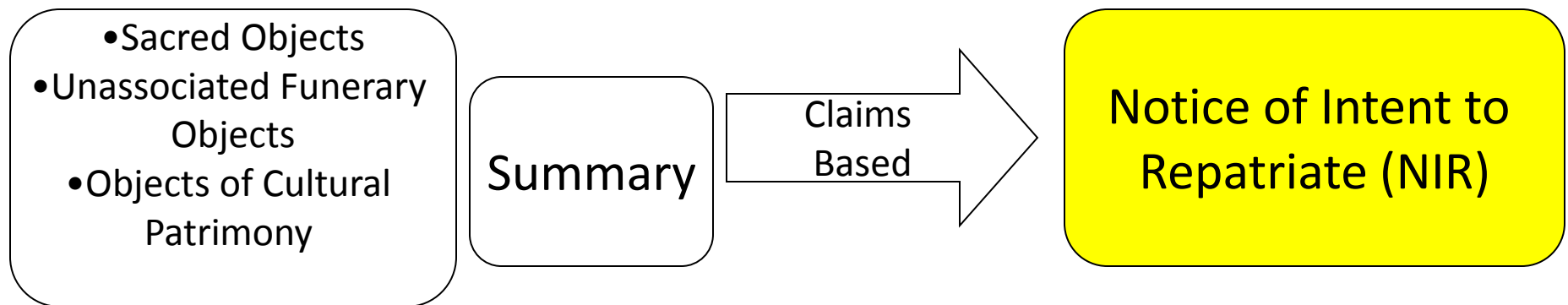
- Consider all available information
- Include information from consultations
- A new scientific study is not required
- Use reasonable basis standard
- In the absence of the ability to determine cultural affiliation, human remains are “culturally unidentifiable”
- Can amend inventory with additional information (culturally unidentifiable human remains/associated funerary objects may be determined to be culturally affiliated)

What comes next?

Section 5



Section 6



What is a Notice?

- A printed announcement of a Federal agency or museum's decision on Native American human remains and cultural items
- Establishes the rights of lineal descendants or Indian tribes to request the remains of their ancestors or cultural items.
- Reflects the agreement regarding the cultural items between the Federal agency or museum and the tribes
- Reflects the opinion of cultural affiliation

Why Publish a Notice?

- Required by law (section 5 & 6)
- Shows the public the museum or Federal agency's decision
- Allows the public and other Indian tribes the opportunity to contact the museum or Federal agency if they have claims or other relevant information
- Establish the rights of Indian tribes to claim

NAGPRA Notices

NOTICE TYPE	APPLIES TO	CULTURAL ITEMS	INSTITUTION	PUBLICATION	CLAIM REQUIREMENT
Notice of Inventory Completion	Collections	Human remains and associated funerary objects	Museum or Federal agency	<i>Federal Register</i>	Notice is not claim dependent
Notice of Intent to Repatriate	Collections	Unassociated funerary objects, sacred objects and objects of cultural patrimony	Museum or Federal agency	<i>Federal Register</i>	Claim initiates notice
Notice of Intended Disposition	New discoveries on Federal and tribal lands	Discoveries on Federal and tribal land after November 16, 1990	Federal agency	Newspapers	Required on all removals

NAGPRA Notice Process

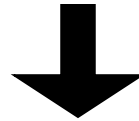
1. The originator (museum or Federal agency) submits a draft notice to the National NAGPRA Program
2. Draft undergoes a technical review and any questions are sent to the originator
3. Final version sent to originator for approval for publication
4. DOI approves notice
5. Notice is sent to the *Federal Register & publishes*
6. The originator receives notification from National NAGPRA of publication
7. The originator notifies the consulted tribes/NHOs
8. Thirty (30) days after publication, and absent any equally appropriate requests, the originator transfers (control/possession)

Notice Writing Tips

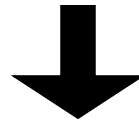
- Use the templates found on the NAGPRA website
http://www.nps.gov/nagpra/NOTICES/INDEX.HTM#Notice_Templates
- Completely spell out the names of tribes using the latest Federal Register edition of the spelling of Indian Tribal Entities
(<http://www.gpo.gov/fdsys/pkg/FR-2010-10-01/pdf/2010-24640.pdf>)
- List the tribes in alphabetical order
- Include the county and state for the site
- Make sure that the MNI and AFO numbers in the notice match the numbers in your inventory. If not, then send an amended inventory
- Use lot counts when describing large numbers of items (ie. *one lot of over 800 seed beads*)

Process: Inventories to Notice (NIC)

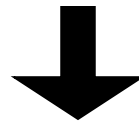
Human Remains and Associated Funerary Objects in a collection



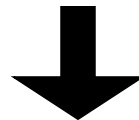
Submit an inventory – prepared in consultation with Tribe(s)



Draft a Notice of Inventory Completion

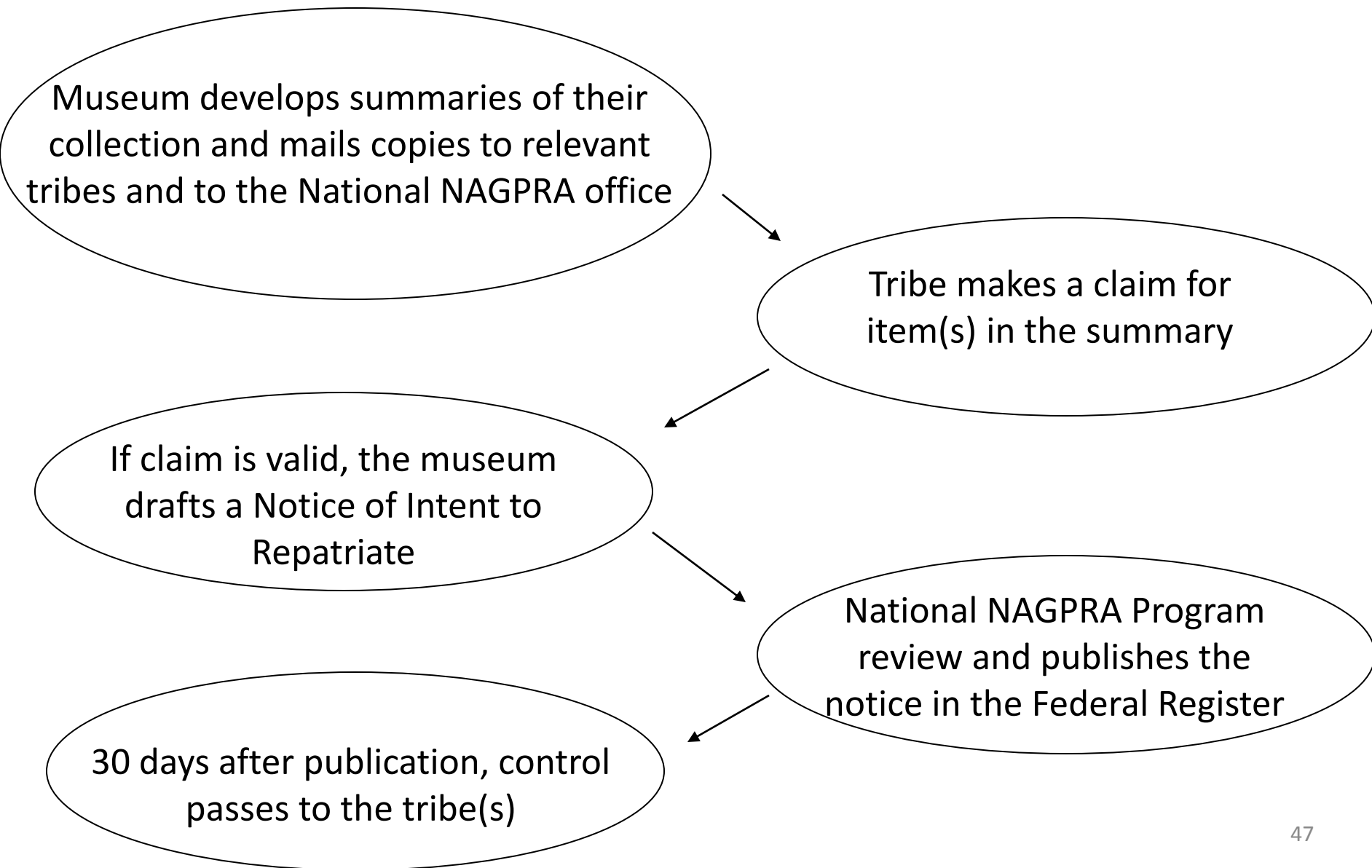


Notice Processes



Notice Publishes – repatriation after 30 days

Process: Section 6 - Summaries to NIRs



New Discoveries on Federal & Tribal Land

Intentional Excavation = Discovery with a Plan

1. Prior to any discovery, and through consultation, develop a Plan of Action or an agreement for disposition upon discovery and removal
2. If items are discovered, immediately put the plan or agreement into action
3. Publish any Notice of Intended Disposition (NID) in newspaper twice
4. Transfer control after 30 days
5. Send copy of NID to National NAGPRA

Inadvertent Discovery = Discovery without a Plan

1. Discovery of items without a plan for disposition
2. Stop work for 30 days, protect site, consult
3. Develop a plan
4. Publish any NID in newspaper twice
5. Transfer control after 30 days
6. Send copy of NID to National NAGPRA

Disposition: Recommendations

- Always have a disposition plan prior to an undertaking
- Combine NAGPRA planning with NEPA and Section 106 Compliance to add disposition upon discovery
- NAGPRA does not prevent a tribe/NHO with control from negotiating with the Federal land manager for a reburial on Federal land

Digitizing & Archiving

Transparency and Accessibility
of National NAGPRA
Program Files



Project Goals

- Complete Databases
- Digitize Documents
- Archive Records

Complete Databases

- Databases populated with information from Museum and Federal agency compliance documents
- Reconciling database entries to paper records for accurate information

Digitizing Documents

- Physically processing all paperwork sent into the NAGPRA program
- Digital documents available upon request
- Future online accessibility of all compliance documents
 - Inventories
 - Summaries
 - Amendments

Archiving Records

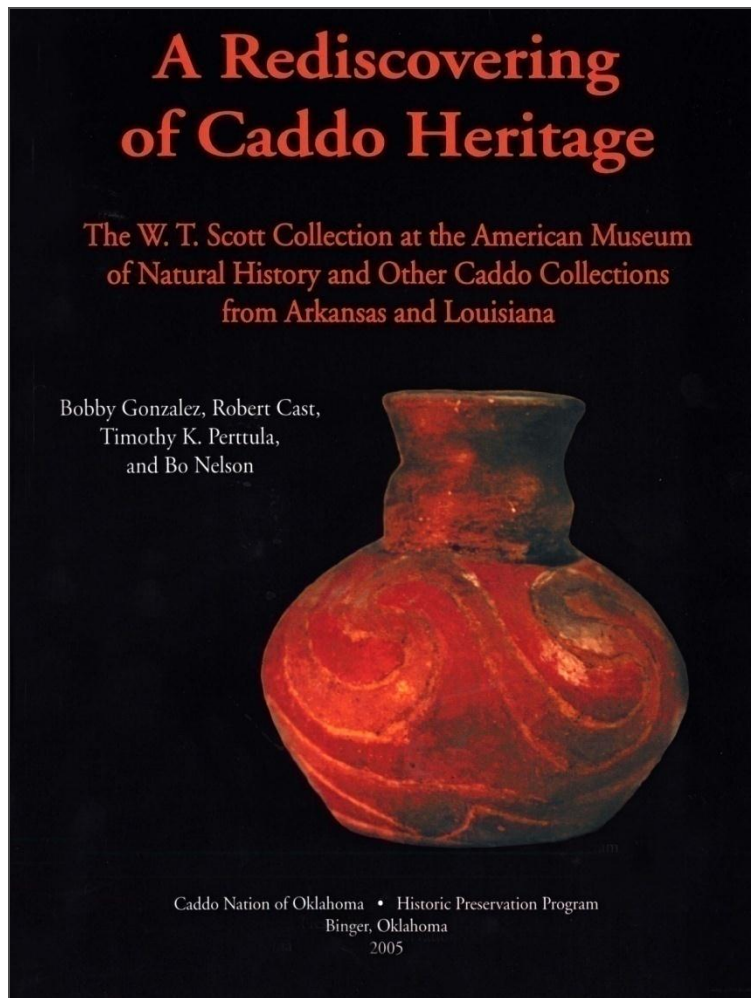
- National Archives
- Availability for research purposes
- Protected and permanent



What is going to the Archives?

- Grants files
- Review committee files
- Notices
- Summaries
- Inventories
- Correspondence files
- Regulations materials

NAGPRA Grants



Awarded to Indian tribes, Native Hawaiian organizations, and museums for consultation, documentation, and repatriation of Native American cultural items on a project-by-project basis

www.nps.gov/nagpra; click on "Grants"

NAGPRA Grant Types

- Consultation/Documentation Awards
 - » \$5,000 - \$90,000
 - » Competitive
 - » Awarded once a year
 - » Project-based awards
- Repatriation Awards
 - » Up to \$15,000
 - » Non-competitive – awarded on a rolling basis while funds are available
 - » Apply after a notice is published, funding disbursed after transfer of control document is received

NAGPRA Grants Deadlines

- Consultation/Documentation Awards
 - December/January: Draft proposals are due (optional)
 - March 2013: Grant applications due
 - July: Grants awarded
 - Repatriation Awards
 - October 1 – June 30: Applications considered
 - Allow at least 8 weeks for processing
- (all grants dependent upon funding grants prior to award)

NAGPRA Grants: Eligibility

1. (Federally recognized) Indian tribes and Native Hawaiian organizations.
2. Museums (institutions having control of Native American human remains and/or cultural objects and receive Federal funds).
 - *Museums* are state or local government agencies, private institutions, and institutions of higher learning.
 - Eligible museums must have prepared a summary or inventory of their collections (as applicable) as required by NAGPRA.

National NAGPRA



[Resources for](#) | [Tribes](#) | [Museums](#) | [Agencies](#) | [Public](#) | [Press](#)

NAGPRA Grants

Section 10 of the Native American Graves Protection and Repatriation Act authorizes the Secretary of the Interior to make grants to museums, Indian tribes, and Native Hawaiian organizations for the purposes of assisting in consultation, documentation, and repatriation of Native American "cultural items," including human remains, funerary objects, sacred objects, and objects of cultural patrimony.

Two types of grants are available – Consultation/Documentation Grants and Repatriation Grants. Each has a separate application process. The National NAGPRA Program, within the National Park Service, administers both Consultation/Documentation and Repatriation Grants.

Eligibility: Museums with possible NAGPRA collections, Indian tribes, and Native Hawaiian organizations as defined in NAGPRA are eligible to apply. **See page 2 of the FY2012 Grant Guidelines for detailed eligibility requirements.**

Consultation/Documentation grants: Project-based grants to support the efforts of both museums, Indian tribes and Native Hawaiian organizations to consult and document NAGPRA-related human remains and cultural items.

Award: Competitive grant, awarded once per year

Amount: \$5,000 to \$90,000

Deadline: Applications due March 6, 2012

Consultation. Museums and Federal agencies must consult with known Indian tribes and Native

[Home](#)

[Frequently Asked Questions](#)

[Law and Regulations](#)

[Online Databases](#)

[Grants](#)

[Training](#)

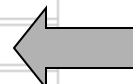
[Notices](#)

[Documents and Publications](#)

[Review Committee](#)

[Special Topics](#)

[Contact National NAGPRA](#)



NAGPRA Training

nps.gov/nagpra/Training

- May 22-23** **Santa Fe, NM,** Writing and Managing a Successful Grant – through NPI (npi.org)
- June 28** **Webinar,** NAGPRA Notices: What You Need to Know
- July 25** **Webinar,** NAGPRA and State Protocols

NAGPRA Review Committee nps.gov/nagpra/Review

May 9-10 Santa Fe, NM, Review Committee Meeting

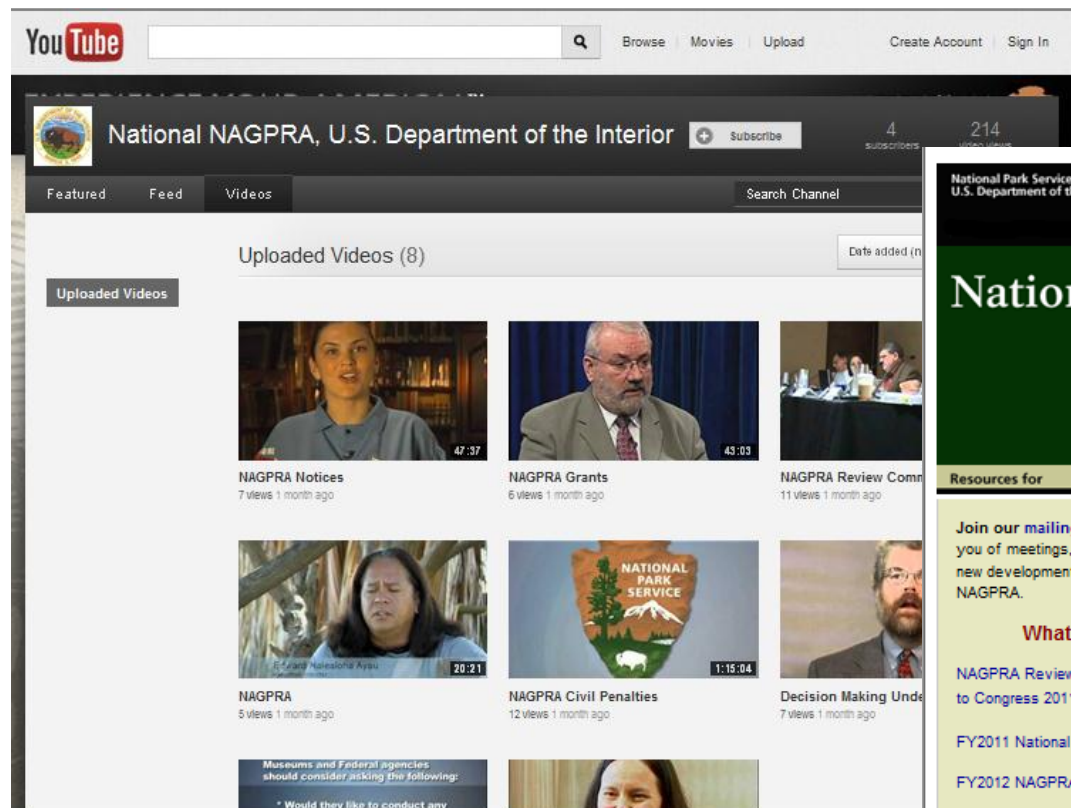
Nov 28-29 Washington, DC,
National Museum of the American Indian

Requests must be received by:

- **Jul 5, 2012** - Requests to consider dispute
- **Aug 10, 2012** - Requests for Findings of Fact
- **Sep 21, 2012** - Requests for CUI disposition
- **Oct 1, 2012** - Requests for Presentations
- **Oct 29, 2012** - Agenda posted online

National NAGPRA Program Resources

Find out more on the National NAGPRA program website and watch the 8 training videos produced in 2010 on You Tube (www.youtube.com, search for NAGPRA)



This screenshot shows the YouTube channel for the National NAGPRA program, U.S. Department of the Interior. The channel has 4 subscribers and 214 videos. The 'Uploaded Videos (8)' section displays a grid of video thumbnails with titles and view counts:

- NAGPRA Notices**: 7 views 1 month ago (47:37)
- NAGPRA Grants**: 6 views 1 month ago (43:03)
- NAGPRA Review Committee**: 11 views 1 month ago
- NAGPRA**: 5 views 1 month ago (20:21)
- NAGPRA Civil Penalties**: 12 views 1 month ago (1:15:04)
- Decision Making Under**: 7 views 1 month ago

A text box at the bottom left states: "Museums and Federal agencies should consider asking the following: * Would they like to conduct any"



This screenshot shows the National NAGPRA website, U.S. Department of the Interior. The header features the National Park Service logo and the title "National NAGPRA". The navigation bar includes links for Resources for, Tribes, Museums, Agencies, Public, and Press. The main content area is divided into three columns:

- Left Column:** "Join our mailing list! We'll notify you of meetings, trainings, and other new developments in National NAGPRA." Below this is a "What's New?" section with links to "NAGPRA Review Committee Report to Congress 2011", "FY2011 National NAGPRA Report", "FY2012 NAGPRA Grants", "FY2012 NAGPRA Repatriation Grant Awards", and "45th NAGPRA Review Committee Meeting (Page 1)".
- Middle Column:** "Minor Amendments to NAGPRA Regulations". Text: "On April 18, 2012, minor amendments to the NAGPRA regulations published in the Federal Register. Comments on these amendments will be received through June 18, 2012. After consideration of the comments, the amendments will be processed within the Department of the Interior to become final. A further notice will publish of the final amendments." Below this is a "Notice of NAGPRA Regulations Renewal of Information Collection". Text: "The set of NAGPRA Regulations, 43 CFR Part 10, is up for periodic renewal. The notice indicates the acceptance of comments regarding information collection required by the rules. This is not notice of"
- Right Column:** A vertical list of links: Home, Frequently Asked Questions, Glossary, Law and Regulations, Online Databases, Grants, Training, Notices, Documents and Publications, Review Committee, Special Topics, Civil Penalties, and Contact National NAGPRA.

The page number "63" is visible at the bottom right.

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Contact the National NAGPRA Program

Address: National NAGPRA Program
 1201 Eye Street
 8th Floor (2253)
 Washington, DC 20005

Telephone: (202) 354-2201

Fax: (202) 371-5197

E-mail: NAGPRA_Info@nps.gov

Web: www.nps.gov/nagpra